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Terminal Disclaimer To Obviate A Double Patenting Rejection Over A Prior Patent				Docket No. 009005	
In Re Application Of: John D. Dobak III et al.					
Application No. 10/749,140	Filing Date 12/29/2003	Examiner Roy Dean Gibson	Customer No. 27774	Group Art Unit 3739	Confirmation No. 3864
Invention: METHOD OF MAKING SELECTIVE ORGAN CATHETER					
Owner of Record: Innercool Therapies, Inc.					
<u>COMMISSIONER FOR PATENTS:</u>					
<p>The above-identified owner of record of a 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,096,068. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors and/or assigns.</p> <p>In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.</p> <p>Check either box 1 or 2 below, if appropriate.</p> <p>1. <input type="checkbox"/> For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.</p> <p>I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.</p> <p>2. <input checked="" type="checkbox"/> The undersigned is an attorney of record.</p> <div style="display: flex; justify-content: space-between; align-items: center; margin-top: 10px;"> <div style="text-align: center;">  <i>Karin L. Williams</i> Signature </div> <div style="text-align: right;"> Dated: 09/23/2005 </div> </div> <div style="display: flex; justify-content: center; align-items: center; margin-top: 10px;"> <div style="border-bottom: 1px solid black; width: 150px; margin-right: 10px;"></div> <div> Karin L. Williams Reg. No. 36,721 Typed or Printed Name </div> </div> <div style="margin-top: 10px;"> <input checked="" type="checkbox"/> Terminal disclaimer fee under 37 C.F.R. 1.20(d) included. <input type="checkbox"/> PTO suggested wording for terminal disclaimer was unchanged. <input type="checkbox"/> Certification under 37 C.F.R. 3.73(b) is required if terminal disclaimer is signed by the assignee. </div>					

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REMARKS

This is a preliminary amendment before the first Office Action.

Claims 1-30 are pending herein.

The specification is amended to add the priority claim to the parent application 09/836,585.

The undersigned attorney intends to file a second preliminary amendment canceling all claims allowed in the parent case and adding new claims. The second preliminary amendment will be filed in response to the notice to file missing parts.


FEES

If there are any fees due and owing in respect to this amendment, the Examiner is authorized to charge such fees to deposit account number 50-1047.

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Respectfully submitted,


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